



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Larry Esquivel

**SUBJECT: WORK PLAN FOR REVISIONS
TO SJMC CHAPTER 8.12 -
SAN JOSE POLICE RESERVE**

DATE: September 11, 2014

Approved

Date

9/11/14

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL

At the April 2014 Public Safety, Finance, and Strategic Support (PSFSS) Committee meeting, during the discussion of the report on the Use of Police Reserves, concerns were raised about San José Municipal Code (SJMC) Chapter 8.12, which establishes the San José Police Reserve. At the May 2014 PSFSS Committee meeting, the Police Department provided an update about concerns raised at the previous meeting. Although some concerns were addressed and clarified, the Committee asked that the Police Department prepare a cross-reference memorandum to be brought before the full City Council regarding updates to the Municipal Code. The purpose of this memorandum is to outline the work plan to delete obsolete references and update the SJMC Chapter 8.12 San José Police Reserve.

RECOMMENDATION

Accept the Police Department's workplan for revisions to San José Municipal Code Section 8.12 – San José Police Reserve.

ANALYSIS

At the May 2014 PSFSS Committee meeting, the Committee was informed that reserve police officers are covered by State worker's compensation laws when performing their monthly volunteer service as reserve police officers, and as disaster service workers. The Committee was also informed that reserve police officers have the ability to purchase individual insurance that would provide legal representation if such reserve officer becomes the subject of an

administrative investigation. Reserve police officers, however, do not have rights under the Public Safety Officers Procedural Bill of Rights Act.

The primary issue that concerned the Committee and the Police Department was related to the current language in SJMC Chapter 8.12, which references the California Disaster Act. The California Disaster Act has been superseded by the California Emergency Services Act. Thus, any references to the California Disaster Act are outdated and should be deleted.¹ Likewise, other outdated and unnecessary references to civil defense, disaster organization, sabotage, enemy attack and the like should be deleted. The Police Department will work with the City Attorney's Office to restructure Chapter 8.12 in order to emphasize that reserve police officers are unpaid volunteer peace officers who derive their authority and powers under the California Penal Code. The revised Chapter 8.12 will be brought to Council for approval.

COORDINATION

This memorandum was coordinated with the City Manager's Office and the City Attorney's Office.

/s/

LARRY ESQUIVEL
CHIEF OF POLICE

For more information contact, please contact Larry Esquivel, Chief of Police, (408) 277-4212.

¹Please note however, that the phrase "disaster service worker," is still a term used in the California Labor Code provisions that provide workers compensation for persons providing services under the California Emergency Services Act.